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No. 80-1669

IN THE
Supreme Court of the United States
OCTOBER TERM, 1980

FRANK E. MOSS, *Petitioner,*

v.

G. ANDREW LAWRENCE, *Respondent.*

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

MOTION FOR LEAVE TO FILE A BRIEF AS AMICUS CURIAE BY THE SOCIETY OF PROFESSIONAL JOURNALISTS, SIGMA DELTA CHI; AND BRIEF IN SUPPORT OF THE PETITION FOR A WRIT OF CERTIORARI

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MOTION FOR LEAVE TO FILE A BRIEF AS AMICUS CURIAE BY THE SOCIETY OF PROFESSIONAL JOURNALISTS, SIGMA DELTA CHI

The Society of Professional Journalists, Sigma Delta Chi moves this Court for leave to file a brief as *amicus curiae* in support of the Petition for a Writ of Certiorari in this case. The consent of the petitioner, Frank E. Moss, has been obtained. The consent of the respondent, G. Andrew Lawrence, has been requested and denied. As an organization whose members are engaged in the gathering and dissemination of news reports concerning election campaigns, movant believes

that the ability of its members to perform this function has been greatly encumbered by the decision below.

Movant believes that its brief as *amicus curiae* will aid this Court by (1) clarifying the far-reaching ramifications of the court of appeals decision for reporting the news during election campaigns, (2) describing how this decision, if permitted to stand, will inhibit criticism of active participants in election campaigns, and (3) elucidating why the decision below is flatly inconsistent with well-established principles of constitutional law articulated by this Court and in conflict with numerous other lower court rulings.

Accordingly, movant respectfully requests this Court to grant leave to file its accompanying Brief in Support of the Petition for a Writ of Certiorari.

Respectfully submitted,

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BRIEF AS AMICUS CURIAE OF THE SOCIETY OF PROFESSIONAL JOURNALISTS, SIGMA DELTA CHI

INTEREST OF AMICUS CURIAE

The Society of Professional Journalists, Sigma Delta Chi is a voluntary, not-for-profit organization of 25,000 members representing every branch and rank of print and broadcast journalism. It is, in fact, the largest, oldest, and most representative organization of journalists in the United States. Among the Society's purposes are its commitments to ensure that the public's business be conducted in public and to keep governmental records open to public inspection. Members of

the Society regularly prepare news reports about election campaigns, frequently including reports about the new breed of political professional that manages those campaigns.

ARGUMENT

The Court of Appeals Decision Unconstitutionally Denies the Press and Public the Requisite First Amendment Protection When Reporting on Election Campaigns and Those Individuals Who Actively Participate in Them.

Elections and political campaigns number among the most portentous events in American society. Successful candidates shape our democracy and the nation's destiny. The First Amendment guarantees voters a full and free debate on each candidate and the conduct of electoral campaigns. It is precisely the vigor of that debate which the court of appeals decision below threatens to dampen by restricting dissemination of information about candidates for public office.

Professional politicians like respondent G. Andrew Lawrence ("Lawrence") play extremely important roles in election campaigns.[1] One commentary about

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[1] Because of their importance to the outcome of elections, these professional campaigners are frequently the subjects of press reports. A sampling of magazine coverage of the 1976 and 1980 presidential campaigns yields dozens of articles about the professional politicians who run election campaigns and advise candidates both before and after the elections. *See, e.g., Who'll Be With Carter If He Gets To The White House,* U.S. News & World Report, July 19, 1976, at 23 (concerning, among others, Carter supporters Hamilton Jordan, Jody Powell, and Stuart Eizenstat); *Deputy President,* Newsweek, July 30, 1979, at 34 (Hamilton

the campaign managers for Ronald Reagan and Jimmy Carter during the 1980 election described their importance:

> [A]s managers of modern Presidential campaigns, William J. Casey and Hamilton Jordan have a unique vocation in common—a high-pressure, $30 million enterprise that is as complex as most large corporations, as subtle as chess, as final as war. The decisions Casey and Jordan make may well decide the 1980 election.[2]

Many of these campaign professionals have a long history of involvement at various levels of government, in

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Jordan); *Kennedy's Inner Circle*, Newsweek, Sept. 24, 1979, at 39 (Kennedy aides Paul Kirk, Carey Parker, Carl Wagner, Lawrence Horowitz, and Stephen Smith); *"Thank God Almighty . . .", Carter Puts A Pro In Charge*, Time, Nov. 19, 1979, at 41 (Carter campaign chairman Robert Strauss); *Boys in the Back Room*, Newsweek, Feb. 4, 1980, at 37 (Reagan campaign manager John Sears and Bush campaign manager James Baker); *"He Was the Cruiser"*, Time, Mar. 10, 1980, at 17 (Reagan's ousted campaign manager Sears and new campaign manager William Casey); *The Men Who Manage The Campaigns*, U.S. News & World Report, Apr. 28, 1980, at 69 (Strauss, Smith, Baker, and Casey); *People To Watch If GOP Wins the White House*, U.S. News & World Report, July 21, 1980, at 19 (Reagan campaign advisors, including Edwin Meese, Casey, Richard Allen, and Lyn Nofziger); *Kraft Drops Out*, Time, Sept. 29, 1980, at 25 (Carter national campaign manager Tim Kraft); *Draft Picks for the New Team*, Time, Nov. 17, 1980, at 41 (Meese, Baker, Michael Deaver, and Allen).

[2] Newsweek, Oct. 6, 1980, at 45; *accord*, Time, Jan. 21, 1980, at 31; Newsweek, Feb. 4, 1980, at 37 (Reagan's failure to win 1976 presidential nomination attributed in part to campaign director's decision to announce vice-presidential candidate prior to nominating convention).

the electoral process, as staff members for elected candidates, and as public officials.[3]

It has become increasingly clear during recent election campaigns that the candidate's policy positions are the result not merely of his personal ideology, but of the campaign organization's synergistic efforts to conceive appealing platforms.[4] The candidate's campaign staff is composed of policymakers, issue-developers, strategists, speechwriters, and spokesmen—orches-

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[3] *See, e.g.*, Newsweek, July 30, 1979, at 34 (Hamilton Jordan's involvement in Jimmy Carter's gubernatorial campaigns in Georgia); *id.*, Sept. 24, 1979, at 39 (Ted Kennedy aides' involvement in campaigns of John F. Kennedy, Robert F. Kennedy, and George McGovern); Time, Jan. 21, 1980, at 31 (Reagan campaign manager John Sears's involvement in Richard Nixon's campaign and administration); U.S. News & World Report, Apr. 28, 1980, at 69 (Bush campaign manager James Baker's involvement in Gerald Ford's 1976 campaign; Reagan campaign organizer William Casey's role in Richard Nixon's 1968 campaign and in Nixon administration); Bus. Week, July 28, 1980, at 41 (allegations of impropriety during Nixon administration involving Reagan advisor Richard Allen; previous involvement of Reagan political director William Timmons with Nixon congressional relations office); Time, Nov. 17, 1980, at 41 (Reagan aide's involvement with 1976 Ford campaign and 1980 Bush campaign); People, Nov. 24, 1980, at 65, 68 (biographical article concerning Reagan advisor Edwin Meese's 13-year involvement with Reagan).

[4] *See, e.g.*, Sidey, *The Presidency: Too Many Horse Handlers*, Time, Mar. 17, 1980, at 24 ("[I]n today's world of intense scrutiny, when a tiny glitch can sink a campaigner, the candidates have become frightened and more dependent than ever on their experts . . . ."); U.S. News & World Report, July 19, 1976, at 23 ("brain trust involved in drafting stands on campaign issues" for Jimmy Carter's 1976 presidential campaign).

trators of the candidate's positions during the campaign.[5]

It is not only the policy-development role that these professional politicians fill for their candidates. In a very real sense, active participants in election campaigns pave the way for their candidates to be elected. They solicit contributions and endorsements, schedule candidate appearances, plan advertising campaigns, recruit volunteers, and orchestrate mass mailings and get-out-the-vote drives.[6] In addition, they operate within the party structure, forging alliances, negotiating compromises, and placating diverse elements of the party hierarchy.[7]

When the candidate is successful, these active participants in his campaign more likely than not become integral parts of the newly elected official's permanent policymaking staff.[8] They often serve as press secretary, domestic affairs advisor, chief of staff, or any of a number of other public officials.[9] Even when these professional politicians do not remain in the political arena, they are likely to have a lasting effect on public

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[5] *See, e.g.*, Sidey, *supra* note 4, at 24; U.S. News & World Report, July 28, 1980, at 19.

[6] *See, e.g.*, Newsweek, Feb. 4, 1980, at 37.

[7] *See, e.g.*, Time, Jan. 21, 1980, at 31; *id.*, Aug. 25, 1980, at 19.

[8] *See, e.g.*, U.S. News & World Report, Nov. 15, 1976, at 45 (roles in Carter administration for 1976 campaign advisors Jordan, Powell, and Eizenstat); *id.*, Nov. 17, 1980, at 48 (administration roles for Reagan campaign advisors Meese, Anderson, Allen, Casey, Nofziger, and Wirthlin).

[9] *Id.*

affairs. They, after all, help shape an elected official's views and his subsequent actions.[10]

In the instant case, Lawrence epitomizes the political professional hired expressly for the purpose of influencing the outcome of electoral contests. He was sent to Utah as an experienced, highly trained professional by an outside group of political operatives.[11] He received extensive training from both the Republican Party and private political committees in the art of electioneering.[12] In the Hatch campaign, he engaged in political polling, strategy formulation, voter targeting, volunteer organization, advertising, writing, fundraising, and general campaign management.[13] He consulted and advised the candidate on commercials, endorsement solicitation, direct mail, voter turnout, get-out-the-vote drives, statewide organizational structure, scheduling, and candidate appearances.[14]

Since paid political professionals such as Lawrence become inextricably intertwined with political candidates and campaigns, press disclosure of information

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[10] When their candidates do not succeed, professional politicians regularly move to another candidate and campaign. *See, e.g.*, Newsweek, Nov. 24, 1980, at 42-43 (James Baker, campaign manager for George Bush, subsequently joined Ronald Reagan's campaign).

[11] Lawrence v. Moss, No. C78-195, at B10 (D. Utah 1979) [page citation to Appendix to Petition for Certiorari].

[12] *Id.* at B6-B11.

[13] *Id.*

[14] *Id.* It is ironic that the criticism voiced in the instant case concerned Lawrence's employment relationship with a politician who a court recently found had taken bribes. *See* N.Y. Times, Apr. 28, 1981, at A1.

about these individuals is an integral part of political campaign expression protected by the First Amendment. In its most significant election law decision, this Court affirmed that speech relating to election campaigns "operates[s] in an area of the most fundamental First Amendment activities." *Buckley* v. *Valeo,* 424 U.S. 1, 14 (1976). The Court explained that "[i]n a republic where the people are sovereign, the ability of the citizenry to make informed choices among candidates for office is essential, for the identities of those who are elected will inevitably shape the course we follow as a nation." *Id.* Accordingly, the First Amendment has its "fullest and most urgent application to the conduct of campaigns for political office." *Id.* at 15.

The Court in *Buckley* found that the contribution and expenditure limitations of the Federal Election Campaign Act ("FECA")[15] necessarily burden expression during an election campaign and can be sustained only if the supporting governmental interests satisfy exacting scrutiny under the First Amendment. *Id.* at 25, 44-46. The Court struck down FECA's expenditure limitations because they "necessarily reduced the quantity of expression by restricting the number of issues discussed, the depth of exploration, and the size of the audience reached." *Id.* at 19. Neither the possibility of corruption, the appearance of corruption, nor any other governmental interest can justify substantial and direct

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[15] 2 U.S.C. §§ 431-55 (1976 & Supp. III 1979) (originally enacted as Federal Election Campaign Act of 1971, Pub. L. No. 92-225, § 301, 86 Stat. 11, as amended by Federal Election Campaign Act Amendments of 1974, Pub. L. No. 93-443, § 201, 88 Stat. 1272; Federal Election Campaign Act Amendments of 1976, Pub. L. No. 94-283, § 101, 90 Stat. 475; Federal Election Campaign Act Amendments of 1979, Pub. L. No. 96-187, § 101, 93 Stat. 1339 [hereinafter cited as 2 U.S.C.].

restrictions on the ability of citizens to engage in protected political expression. *Id.* at 59-60.[16]

Buckley teaches that political expression protected by the First Amendment encompasses information about professional politicians actively engaged in election campaigns. Public discussion of campaign issues readily draws in candidates and their positions, voting records, and other official conduct. *Id.* at 43 n. 50. The conduct of the candidate of necessity implicates the structure and management of his campaign and those professionals paid to make it successful. The First Amendment mandates that expression about such participants not be limited.[17]

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[16] *Buckley* also found limitations on personal expenditures by candidates on their own behalf unconstitutional under the First Amendment. A candidate, "no less than any person, has a First Amendment right to engage in the discussion of public issues and vigorously and tirelessly to advocate his own election and the election of other candidates." 424 U.S. at 52. Public discussion is a public duty particularly imposed on candidates for public office. *Id.* at 53. Protection of the candidate's own speech ensures that "candidates have an unfettered opportunity to make their views known so that the electorate may intelligently evaluate the candidates' personal qualities and their positions on vital public issues before choosing among them on election day." *Id.*

The court of appeals characterization of this suit as one against a private individual ignores the fact that the speaker was a candidate for election at the time of the alleged defamation. The candidate's remark, as is frequently the case, was covered by the press.

[17] *Buckley, supra,* 424 U.S. at 19, 26, recognizes the significance of fundraising, mass media advertising, and sophisticated polling and mailing operations to effective campaigning. The growing importance of these activities enhances the campaign roles of those professionals paid to perform them.

Buckley also addressed FECA's requirements for public reporting of political contributions and expenditures, *id.* at 60, includ-

The First Amendment interests explicated in *Buckley* are consistent with this Court's decisions in defamation cases that the First Amendment requires "breathing space" in election campaigns. In *New York Times Co.* v. *Sullivan,* 376 U.S. 254, 270 (1964), the Court concluded that expression is favored by the First Amendment to the extent that it concerns "debate on public issues." In relation to candidates for public office, the Court in *New York Times* recognized that

> [i]t is of the utmost consequence that the people should discuss the character and qualifications of candidates for their suffrages. The importance to the state and to society of such discussions is so vast, and the advantages derived are so great that they more than counterbalance the inconvenience of private persons whose conduct may be involved, and occasional injury to the reputations of individuals must yield to the public welfare, although at times such injury may be great. The public benefit from publicity is so great and the chance of injury to private character so small that such discussion must be privileged.

Id. at 281-82 (quoting *Coleman* v. *MacLennan,* 78 Kan. 711, 98 P. 281 (1908)).

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ing expenditures for services of political consultants in support of election campaigns, *see* 2 U.S.C. § 434(b). The Court found that in addition to deterrence of corruption and the appearance of corruption, such disclosure informs the electorate of the source of campaign funds and the method by which funds are spent to aid voters in candidate evaluation. The public interest in disclosure of campaign expenditures set forth in *Buckley* is commensurate with the First Amendment purpose of full and free disclosure of campaign issues, candidate qualifications, and the conduct of campaigns. *See* Buckley, *supra,* 424 U.S. at 14.

Thus, in a pair of unanimous decisions in 1971, this Court applied the *New York Times* requirement of constitutional malice to libel suits against the press brought by candidates in election campaigns. In *Monitor Patriot Co.* v. *Roy,* 401 U.S. 265, 272 (1971), the Court asserted that the First Amendment "has its fullest and most urgent application precisely to the conduct of campaigns for political office." Similarly, in *Ocala Star-Banner Co.* v. *Damron,* 401 U.S. 295, 300-01 (1971), the Court reiterated that "[p]ublic discussion about the qualifications of a candidate for elective office presents what is probably the strongest possible case for application of the *New York Times* rule."

The manifest First Amendment interest in press reports concerning election contests is in no way limited when the plaintiff in a defamation suit is not a candidate but an active participant in his campaign. As this Court has explained:

> Given the realities of our political life, it is by no means easy to see what statements about a candidate might be altogether without relevance to his fitness for the office he seeks. The clash of reputations is the staple of election campaigns . . . .

Monitor Patriot Co., supra, 401 U.S. at 275.[18]

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[18] *See* Monitor Patriot Co., *supra,* 401 U.S. at 275 ("A community that imposed legal liability on all statements in a political campaign deemed 'unreasonable' by a jury would have abandoned the First Amendment as we know it."); Thompson v. Evening Star Newspaper Co., 394 F.2d 774, 776 (D.C. Cir. 1968) ("The public plainly has a vital interest not only in the calibre of candidates for political office, but in the nature of the groups or factions supporting the candidates, and the quality of candidates' spokesmen and backers are appropriate considerations to be taken into

In contrast to the First Amendment interest in expression about political campaigns, the state interest in protecting individual reputation is greatly diminished when the plaintiff in a defamation suit plays an active role in the political process. Such a person "must accept certain necessary consequences of involvement in public affairs" and runs "the risk of closer public scrutiny." *Gertz* v. *Robert Welch, Inc.*, 418 U.S. 323, 344 (1974). This "compelling normative consideration," *id.* at 344, renders him less deserving than a truly private individual of the protections provided by the law of defamation.

To distinguish "public figures" from private individuals who have "relinquished no part of [their] interest in the protection of [their] good name," *id.* at 345, this Court has formulated a test that seeks to identify those who have "thrust themselves to the forefront of particular public controversies in order to influence the resolution of the issues involved." *Id.* By requiring that the plaintiff purposefully seek to "influence the resolution" of a "public controversy," the Court makes certain that the public-figure plaintiff has assumed the risk of "public scrutiny."

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account."); Buchanan v. Associated Press, 398 F.Supp. 1196, 1203 (D.D.C. 1975) ("Since the [Finance] Committee [to Re-Elect the President] was surely the legitimate object of searching public scrutiny, its agents . . . also must be examined carefully and come within the area of great public concern.") As Justice White noted in *Rosenbloom* v. *Metromedia, Inc.*, 403 U.S. 29, 61 (1971) (White, J., concurring):

> Discussion of the conduct of public officials cannot, however, be subjected to artificial limitations designed to protect others involved in an episode with officials from unfavorable publicity. Such limitations would deprive the public of full information about the official action that took place.

As a class, therefore, those who play an active role in political campaigns must be categorized as "public figures" when they bring defamation actions. There is no more significant "public controversy" for First Amendment purposes than a campaign for election to public office.[19] By definition, an active participant in an election campaign voluntarily seeks to influence the resolution of that public controversy. His sole function is to convince voters to elect one candidate rather than another. Like the public official, the active participant in an election campaign is subject to the constitutional malice standard by virtue of his role in the political process.[20]

The court of appeals, however, held that Lawrence is not a public figure because he did not thrust himself into "public prominence."[21] This conclusion is based

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[19] Since a political campaign is by its nature a "public controversy," courts determining whether an active campaign participant is a "public figure" are spared the task of determining on an *ad hoc* basis "what information is relevant to self-government," Gertz, *supra,* 418 U.S. at 346.

[20] If a defamatory statement concerning an active participant in a political campaign is unrelated to the election contest and does not touch on the candidate's "fitness for office," Garrison v. Louisiana, 379 U.S. 64, 77 (1964), this Court's established rules would permit him to recover upon a showing of negligence, *see* Rosenblatt v. Baer, 383 U.S. 75, 84 (1966). Moreover, not all campaign workers are public figures by virtue of their participation in a campaign; there is a common sense distinction, long applied by this Court in the public official context, between nightwatchmen and secretaries on the one hand, and those who solicit funds, plan strategy, advocate the candidate's election, or advise the candidate, on the other. *Id.*

[21] Lawrence v. Moss, No. 79-1922, at A7 (10th Cir. Jan. 13, 1981) [page citation to Appendix to Petition for Certiorari].

on the court's understandable confusion in considering two distinct branches of the public figure test.[22] There is no contention in this case that Lawrence is a public figure under the first branch because of his "pervasive fame or notoriety." *Id.* at 351. Rather, Lawrence is a public figure under the second branch of the test because of his influential role in an election campaign for the United States Senate.[23]

Misapplication of the public figure test in this case constructs a sharply barbed barrier to news reports about election campaigns. In this first significant ruling on the question since this Court's pronouncements in *Wolston* v. *Reader's Digest Association,* 443 U.S. 157 (1979), and *Hutchinson* v. *Proxmire,* 443 U.S. 111 (1979), the court of appeals has advised the press that news reports about campaign officials—even newsworthy accusations made in the heat of the campaign —are published only at the peril of libel litigation where the *New York Times* protections will not obtain, but where the plaintiff can recover upon a showing of mere negligence. The plethora of pre-1979 cases recog-

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[22] *See* Note, *The Editorial Function and the Gertz Public Figure Standard,* 87 Yale L.J. 1723, 1733 (1978).

[23] This case illustrates an unfortunate byproduct of this Court's recent attempts to stem unwarranted expansion of the application of the constitutional malice standard. The court of appeals, by mechanical reference to tests devised for those whose conduct has scant relevance to the political process, has seriously inhibited the dissemination of information that lies at the heart of *New York Times Co., supra.* In contrast, other courts have applied the constitutional malice standard to plaintiffs who can not, by any stretch of the imagination, be said to have played a role in the political process, even though they clearly satisfy the definition of a "public figure" set forth in *Gertz* and its progeny. *See, e.g.,* Carson v. Allied News Co., 529 F.2d 206 (7th Cir. 1976).

nizing that these individuals must prove constitutional malice may well be disregarded when a journalist assesses the risks of publishing articles about participants in the campaign process.[24] Certainly, a conscien-

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[24] The number of pre-1979 decisions holding that active participants in election campaigns are public figures is impressive and indicates the significant change in the law worked by the court of appeals decision. *See, e.g.*, Time, Inc. v. McLaney, 406 F.2d 565 (5th Cir. 1969) (plaintiff provided helicopters to campaign committee); Thompson v. Evening Star Newspaper Co., 394 F.2d 774 (D.C. Cir. 1968) (participant in Democratic Party primary campaign); Whitaker v. Denver Post, Inc., 4 Media L. Rep. (BNA) 1351 (D. Wyo. 1978) (participant in Wyoming political campaigns); Buchanan v. Associated Press, 398 F. Supp. 1196 (D.D.C. 1975) (parttime accountant for Finance Committee to Re-Elect the President); Gleichenhaus v. Carlyle, 5 Media L. Rep. (BNA) 1602 (Kan. 1979) (contributor to mayoral campaign); A. S. Abell Co. v. Barnes, 258 Md. 56, 265 A.2d 207 (1970), *cert. denied*, 403 U.S. 921 (1971) (candidate for state constitutional convention); Perkins v. Mississippi Publishers Corp., 241 So.2d 139 (Miss. 1970) (active participant in Mississippi politics); Adams v. Frontier Broadcasting Co., 2 Media L. Rep. (BNA) 1166 (Wyo. 1976) (active politician and candidate); News Journal Co. v. Gallagher, 233 A.2d 166 (Del. 1967) (chairman of Wilmington City Republican Committee); Weingarten v. Block, 5 Media L. Rep. (BNA) 2595 (Cal. Ct. App. 1980) (member of Democratic Central Committee for Monterey County); Guthrie v. Annabel, 50 Ill. App.3d 969, 365 N.E.2d 1367 (Ill. App. 1977) (chairman of political party central committee); Tait v. King Broadcasting Co., 1 Wash. App. 250, 460 P.2d 307 (1969) (state chairman of Conservative Party); Gilberg v. Goff, 21 A.D.2d 517, 251 N.Y.S. 2d 823 (1964) (law partner of mayoral candidate is public figure for purposes of article about campaign); Bianco v. Palm Beach Newspapers, Inc., 6 Media L. Rep. (BNA) 1484 (Fla. Dist. Ct. Mar. 26, 1980) (president of Sunshine Democratic Club); Tracy v. New York Magazine Co., 3 Media L. Rep. (BNA) 2294 (N.Y. Sup. Ct. 1978) (office manager of mayoral campaign); *cf.* Rebozo v. Washington Post Co., 6 Media L. Rep. (BNA) 2505, 2508 (5th Cir. Feb. 19, 1981) (close friend of former President Nixon is

tious press attorney must advise a client that there is a significant possibility that an article discussing individuals such as Lawrence will become the subject of troublesome and costly litigation.[25] As a result, the press will be "deterred" from publishing such an article,

> even though it is believed to be true and even though it is in fact true, because of doubt whether it can be proved in court or fear of the expense of having to do so.

New York Times Co., supra, 376 U.S. at 279. In this manner, the court of appeals decision "dampens the vigor and limits the variety of public debate" and is therefore "inconsistent" with the First Amendment. *Id.; accord, Buckley, supra,* 424 U.S. at 19.

Accordingly, *amicus* urges the Court to seize this opportunity to reaffirm, for the benefit of lower courts,

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public figure because, *inter alia,* he "played an active role in the President's 1972 re-election campaign"); Washington v. World Publishing Co., 506 P.2d 913 (Okla. 1972) (dispute between Senate candidate and party county chairman is event of public interest); Miller v. Argus Publishing Co., 79 Wash.2d 816, 490 P.2d 101 (1971) (article about plaintiff engaged in public relations and advertising in political campaign is of public interest).

[25] *See* Anderson, *Libel and Press Self-Censorship,* 53 Tex. L. Rev. 422, 438-41 (1975) (prominent role of attorney in press publication decisions). A number of enormous verdicts rendered against the press in the past year demonstrate the very real threats of substantial penalties. *See, e.g.,* Burnett v. National Enquirer, No. C 15213 (Cal. Super. Mar. 26, 1981) ($1,600,000); Pring v. Penthouse International, No. C79-3518 (D. Wyo. Mar. 27, 1981) ($12,500,000, reduced from jury award of $25,000,000); Green v. Alton Telegraph Printing Co., No. C-77-L-66 (Ill. 3d Cir., Madison Cty. 1980) ($9,100,000).

the manifest First Amendment interest in the dissemination of information in election campaigns and the concomitant diminished state interest in redressing injuries allegedly suffered by those who play an active role in those campaigns. Otherwise, the court of appeals decision will engender "unpredictable results and uncertain expectations," *Gertz, supra,* 418 U.S. at 343, which will result in a decrease in meaningful news reports about the electoral process.

CONCLUSION

For the foregoing reasons, *amicus* respectfully urges this Court to grant the Petition for a Writ of Certiorari.

Respectfully submitted,

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APPENDIX

JONES, WALDO, HOLBROOK & MCDONOUGH
A PROFESSIONAL CORPORATION

April 24, 1981

Mr. Bruce W. Sanford
BAKER & HOSTETLER
Attorneys at Law
818 Connecticut Avenue, N.W.
Washington, D.C. 20006

RE: Moss v. Lawrence, Supreme Court Docket No. 80-1669

Dear Mr. Sanford:

As counsel of record for petitioner, Frank E. Moss, we hereby give our consent for the filing of an *amicus curiae* brief on behalf of the Society of Professional Journalists, Sigma Delta Chi.

Very truly yours,

JONES, WALDO, HOLBROOK & MCDONOUGH

/s/ DONALD B. HOLBROOK
Donald B. Holbrook

DBH:cs